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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,445	09/10/2003	Victor Bota	116719.00011	4902
21324	7590	01/12/2006		
HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076			EXAMINER GATES, ERIC ANDREW	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

THK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,445	BOTA, VICTOR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eric A. Gates	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to Applicant's amendment filed on 3 November 2005.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bota (U.S. Patent 6,378,184).
4. Bota '184 discloses a method for manufacturing ducts that meets the following requirements of the instant claim 13:
  - a. a tubular work piece 10 is provided,
  - b. said tubular work piece 10 is positioned in the automated adjustable duct machine 50,
  - c. said tubular work piece 10 is clamped using clamp assembly 200,
  - d. said tubular work piece 10 is cut and positioned to form first and second work piece portions 12 and 14 along a plane at an angle to a radial plane perpendicular to the longitudinal axis of the tubular work piece 10,

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- f. a bead 24 is formed between the two work piece portions 12 and 14 to allow relative rotation and interlocking of the work piece portions,
- j. the tubular work piece 10 is unclamped to allow repositioning or removal from machine.

In the specification, Bota '184 alternatively discloses a mechanism to rotate the tubular work piece 10 180°, meeting the requirements of claim 13e and 13g; a positioning system to move the tubular work piece 10 to other predetermined longitudinal positions for cutting and forming more coupling beads, meeting the requirement claim 13h; and the use of a single workstation 50 to perform the multiple cutting and coupling bead forming steps in at least two predetermined locations, meeting the requirements of claim 13i and claim 15. In reference to claims 16-18, Bota '184 also discloses a preferred cut angle of 15°, and the formation of a 90° adjustable duct member / adjustable elbow.

5. Bota '184 does not disclose rotating the first work piece portion 180 degrees relative to the second work piece portion such that the first work piece portion is angled to the second work piece portion by an angle generally equivalent to twice the angle of the cut, or adjustably connecting the first work piece portion to the second work piece portion while the first work piece portion is angled to the second work piece portion by an angle generally equivalent to twice the angle of the cut. However, the method of Bota '184 accomplishes this using a variation of the steps in claim 13, and the final result of the method of Bota '184 is the same as that in the instant application when following the method of claim 13, and it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected

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results. In re Gibson, 39 F.2d 975, 5 USPQ 230 (CCPA 1930). Bota '184 also discloses the use possibility of using a single workstation on page 8, lines 55-57.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have reordered the steps of the method of Bota '184 for the purpose of using them with a single workstation in order to obtain the desired angled work piece.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bota '184 in view of Bellatorre (U.S. Patent 3,010,506). Bota '184 discloses the invention substantially as claimed, except Bota '184 does not directly disclose a cut angle of 22.5°. Bellatorre teaches cutting at a 22.5° angle, as shown in Figure 2, for the purpose of making a 90° elbow. Therefore it would have been obvious to one having ordinary skill in the art to have combined the duct member of Bota '184 with the cut angle of Bellatorre in order to manufacture a three-piece 90° duct elbow cut at angles of 22.5°.

### ***Response to Arguments***

7. Applicant's arguments with respect to claim 13 have been considered but are moot in view of the new ground(s) of rejection.

8. For the reasons as set forth above, the rejections are maintained.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG  
4 January 2006



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER